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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,599	01/15/2004	Sen-Mei Cheng	BHT-3125-186	4650
7590	04/12/2005		EXAMINER	
TROXELL LAW OFFICE PLLC SUITE 1404 5205 LEESBURG PIKE FALLS CHURCH, VA 22041			MANLOVE, SHALIE A	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/757,599

Applicant(s)

CHENG, SEN-MEI

Examiner

Shalie A. Manlove

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim is narrative in form and replete with indefinite and functional or operational language. Applicant appears to be claiming a method of producing a dyeing pigment for yarns however the claim lacks any active, positive steps delimiting how this method is utilized to produce the dyeing pigment. The method steps of the process must be clearly and positively specified. The process steps must be organized and correlated in such a manner as to present a complete operative claim.

Examples of the indefinite and functional/operational language include:

Line 15: harmful chemicals such as sulfide, nitride.....

Line 16: carbolic acid, etc; meanwhile infrared suitable.....

4. The term "high temperature" in claim 1 is a relative term, which renders the claim indefinite. The term "high temperature" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would

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not be reasonably apprised of the scope of the invention. In lines 4 and 6, the claim recites, "burning at a high temperature", at what degree is "high" temperature?

5. The term "delicate" in claim 1 is a relative term which renders the claim indefinite. The term "delicate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In line 4, what is meant by "delicate in structure"?

6. The term "high in relative density" in claim 1 is a relative term which renders the claim indefinite. The term "high in relative density" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In line 4, what is meant by "high in relative density"?

7. In lines 10 and 11, the claim recites percentage of bamboo carbon and polyester grains. Is Applicant claiming weight percent or volume percent?

8. In line 12, what is meant by "bamboo carbon powder of strong adhesive and dissolving capacities"?

9. In line 19, how is anti-bug design achieved and furthermore what is anti-bug design?

### ***Specification***

10. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima US 6,451,427.

With regards to applicant's claim 1, Takashima teaches carbonizing wood in column 3, lines 15-39 to achieve carbon powder and charcoal of bamboo. The charcoal of bamboo and carbon black are blended 1-50 % (col. 4, lines 24-25) with the synthetic resin and is spun into a single fiber or fibers (col. 5, lines 5-14 and col. 8, lines 28-col. 9, line 5).

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  4. JP 11-131377 teaches dyeing of cloth using bamboo coal powder.

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**Remarks**

Based on what the examiner can glean from the claim, the reference appears to render the instant claim obvious.

It is unclear as to what exactly applicant is intending to claim, the examiner is currently unsure as to whether or not the cited references teach and/or fairly suggest the instant invention. The examiner reserves the right to utilize the cited art in subsequent rejections if applicable.

**Conclusion**

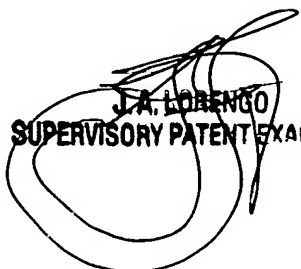
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shalie A. Manlove whose telephone number is (571) 272-1372. The examiner can normally be reached on M-TH 6:30-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shalie A. Manlove  
Examiner  
Art Unit 1755

April 7, 2005

  
J.A. LORENCO  
SUPERVISORY PATENT EXAMINER